

TENNESSEE ALCOHOLIC BEVERAGE COMMISSION

Minutes
February 16, 2006
9:30 a.m.

The regular meeting of the Tennessee Alcoholic Beverage Commission was held on Thursday, January 26, 2006 in Nashville, Tennessee at 9:30 a.m. Chairman John Jones, Commissioners Cynthia Bond and Harlan Mathews were present. Executive Director Danielle Elks, Assistant Director Carolyn Smith, CLEO Mark Hutchens, SAC Mike Cawthon and ASAC Andy Woodall from the staff were present.

- 1. The Minutes for January 26, 2006 Commission Meeting were approved**
- 2. OLD BUSINESS--UPDATE**

HUGH McSHARRY: NASHVILLE WINE EXCHANGE (“NWE”)

During the December, 2005 Commission meeting, Hugh McSharry and his attorney presented to the Commission a business plan that would create a climate controlled storage facility for fine wine. He proposed that the business would implement software that would monitor the client’s inventory in storage. His business would obtain the alcohol after the client has purchased the alcohol—either by meeting the client at the retail store and taking the product to the storage facility or by having the client deliver the alcohol directly to the storage facility. NEW would deliver the product to the client at the client’s demand either to the client’s home or to another legal location.

Several concerns were expressed regarding the business. These concerns included the following:

- a. The pick-up and delivery of alcohol;
- b. The possibility that out-of-state/untaxed alcohol could enter the state, and that this business may provide a convenience for this to occur; and
- c. That NWE would be an unlicensed entity, and the TABC would not have access to the premises or to the records;

Discussion/Action Taken:

Director Elks stated that there were no updates regarding Nashville Wine Exchange (“NWE”). She stated that the update would be presented at the next meeting.

3. RETAIL PACKAGE STORES:

**A. 1. SAM'S LIQUOR STORE
CHATTANOOGA, TENNESSEE (HAMILTON COUNTY)**

Licensee/Seller: Donald Phipps
Applicant/Buyer: Brad Bauman

Before the Commission is a request for a transfer of ownership of the retail package store located at 2438 Rossville Boulevard in Chattanooga, Tennessee. Mr. Bauman intends to initially invest approximately \$135,000 and operate the store as a sole proprietorship. Financing is based upon an inheritance, and the remainder is financed by a promissory note held by the current owners. All documentation has been submitted with the exception of the following:

- a. Actual lease to Brad Bauman when obtained;
- b. Sales tax number; and
- c. Promissory note with Mr. Phipps indicating amount of repayment and the interest rate.

Discussion/Action Taken:

Director Elks reviewed the application for the Commissioners. She recommended approval upon submission of the actual lease to Brad Bauman. She stated all other documentation has been submitted. Commissioner Mathews made a motion to approve upon submission of the lease. Commissioner Bond seconded the motion, and it was approved with 3 ayes.

**2. KIRBY WINES & LIQUORS
MEMPHIS, TENNESSEE (SHELBY COUNTY)**

Licensee: Terry E. Woodard

Before the Commission is a request to transfer the location of Kirby Wines and Liquors from its current location of 6548 Quince Road to 2865 Kirby Parkway in Memphis. This request is based upon a change in traffic patterns and an increased square footage. All documentation has been submitted with the exception of the following:

- a. Use and Occupancy permit; and
- b. TABC Inspection.

Discussion/Action Taken:

Director Elks reviewed the application for the Commissioners. She recommended approval upon submission of the Use and Occupancy and TABC Inspection. Commissioner Mathews made a motion to approve upon submission of the pending documentation. Commissioner Bond seconded the motion, and it was approved with 3 ayes.

**3. TOWN SQUARE PACKAGE STORE
GREENEVILLE, TENNESSEE (GREENE COUNTY)**

Licensee/Seller: Town Square Package Store, Inc.
Stockholders: Sven Hadjopoulos and Mary Lou Hadjopoulos
Applicant/Buyer: Josh Hadjopoulos

Before the Commission is a request for a partial transfer of ownership of the retail package store located at 200 Summer Street in Greeneville, Tennessee. The current stockholders desire to each give 1000 shares of stock to their son. The resulting ownership percentage would be 45% each to Sven and Mary Lou Hadjopoulos and 10% to Josh Hadjopoulos. The transfer occurred in 2004. All documentation has been submitted with the exception of the following:

- a. Copy of Newspaper notice and affidavit; and
- b. Payment of citation for transfer of ownership without Commission's prior approval.

Discussion/Action Taken:

Director Elks reviewed the application for the Commissioners. She recommended approval upon submission of the copy of the Newspaper Notice, affidavit and payment of the citation. Chairman Jones made a motion to approve upon submission of the pending documentation. Commissioner Bond seconded the motion, and it was approved with 3 ayes.

**4. SPIRITS OF ATOKA
ATOKA, TENNESSEE (TIPTON COUNTY)**

Applicant: Brett Pickard

Before the Commission is a request for a new package store to be located at 11454 Highway 51, in Atoka, Tennessee. Mr. Pickard has purchased the land and has built a store at this location for \$400,000. He intends to operate the store as a sole proprietor and initially invest between \$80,000 and \$100,000 to operate the business. Financing for the land and construction was based upon a loan with First Citizens Bank; the remainder of the financing is based upon personal funds. All documentation has been submitted with the exception of the following:

- a. Use and Occupancy permit;
- b. TABC Inspection;
- c. Acknowledgement of the rules and regulations; and
- d. Written acknowledgement that Sparky's convenience store and this business may not be operated together.

Discussion/Action Taken:

Director Elks reviewed the application for the Commissioners. She recommended approval upon submission of the following documentation:

- a. Use and Occupancy permit;
- b. TABC Inspection;
- c. Acknowledgement of the rules and regulations; and
- d. Written acknowledgement that Sparky's convenience store and this business may not be operated together.

Commissioner Bond made a motion to approve upon submission of the pending documentation. Commissioner Mathews seconded the motion, and it was approved with 3 ayes.

**5. NORTHSIDE LIQUORS
MURFREESBORO, TENNESSEE (RUTHERFORD COUNTY)**

Licensee/Seller: Lovelace and Jones, Inc.
Stockholder: David Lovelace
Applicant: McAfee and Church, Inc.
Stockholders: Matthew McAfee and Cindy Church

Before the Commission is a request for a transfer of ownership of the retail package store located at 220 West Northfield Boulevard, Murfreesboro, Tennessee. Mr. Matthew McAfee and Cindy Church intend to operate the business as a corporation, and plan to initially invest approximately \$1,100,000 to operate the store. Financing is based upon personal funds a loan with Cavalry Bank to purchase the land, build the retail store, purchase inventory/equipment, and provide working capital. All documentation has been submitted with the exception of the following:

- a. Deed to property when obtain;
- b. TABC Inspection;
- c. Acknowledgement of the Rules/Regulations; and
- d. Use and Occupancy permit, and
- e. Clarification of a source of funds.

Discussion/Action Taken:

Matthew McAfee was present at the meeting. Director Elks reviewed the application for the Commissioners. She recommended approval upon submission of the copy of the following documentation:

- a. Deed to property when obtain;
- b. TABC Inspection;
- c. Acknowledgement of the Rules/Regulations; and
- d. Use and Occupancy permit, and
- e. Clarification of a source of funds.

Commissioner Mathews made a motion to approve upon submission of the pending documentation. Commissioner Bond seconded the motion, and it was approved with 3 ayes.

**6. FOUR SIXES LIQUORS AND WINE
MT. PLEASANT, TENNESSEE (MAURYCOUNTY)**

Licensee/Seller: Four Sixes Liquor Store, Inc.
Stockholder: Marilyn Gentry
Applicant/Buyer: Four Sixes Corporation
Stockholders: James Tjoflot, Jr.

Before the Commission is a request for a transfer of ownership of the retail package store to be located at 715 South Main Street in Mt. Pleasant, Tennessee. Mr. Tjoflot intends to operate the business as a corporation, and to initially invest approximately \$350,000. Financing is based upon a promissory note with the seller for the purchase of the land in the amount of \$250,000; \$100,000 will be invested for the purchase of the stock and inventory and is based upon an \$85,000 loan from James Tjoflot, Sr. and the remainder from personal funds. All documentation has been submitted with the exception of the following:

- a. TABC Inspection;
- b. Signature on the seller's promissory note;
- c. Bank credit check
- d. Loan agreement with James Tjoflot, Sr.

- e. Use and Occupancy permit; and
- f. Acknowledgement of the rules and regulations

Discussion/Action Taken:

Director Elks reviewed the application for the Commissioners. She recommended approval upon submission of the signature on the seller's promissory note. She stated that the staff had received all other documentation. Commissioner Mathews made a motion to approve upon submission of the pending documentation. Commissioner Bond seconded the motion, and it was approved with 3 ayes.

**7. WINE CELLAR
MEMPHIS, TENNESSEE (SHELBY COUNTY)**

Licensee/Seller: Wine Cellar, LLC
Members: Richard and Donna Enrlquez
Applicant/Buyer: Dilbaq Singh

Before the Commission is a request to transfer ownership of the business currently located at 7960 Winchester Road in Memphis, Tennessee. Mr. Dilbaq intends to operate the business as a sole proprietorship and to initially invest approximately \$450,000. The purchase price of the business is \$450,000—\$225,000 for the fixtures, \$125,000 for the existing inventory, and \$100,000 for goodwill. Financing is based upon a \$300,000 loan with Trustmark National Bank, with the remainder coming from personal funds. All documentation has been submitted with the exception of the following:

- a. TABC Inspection; and
- b. Written consent of the landlord to assign lease.

Discussion/Action Taken:

Mr. Dilbaq Singh was present at the meeting. Director Elks reviewed the application for the Commissioners. She recommended approval upon submission of the TABC Inspection and written consent of the landlord to assign lease. Commissioner Bond made a motion to approve upon submission of the pending documentation. Commissioner Mathews seconded the motion, and it was approved with 3 ayes.

4. WHOLESALE MATTERS

1. OMNI BEVERAGE MARKETING COMPANY

Applicant: Omni Beverage Marketing Company
Stockholder: George F. Dettwiller

Before the Commission is a request for a new wholesaler's license to be located at 301 Great Circle Road. Mr. Dettwiller intends to initially invest approximately \$100,000 to operate the business. Financing is based upon personal funds. Mr. Dettwiller and Omni Beverage Marketing Company previously held a wholesale license without incident until the license expired in December, 2003 and was not renewed. All documentation has been submitted with the exception of the following:

Acknowledgement of the TABC rules and regulations.

Discussion/Action Taken:

Mr. Kenneth M. Draper and Mr. John Curley were present at the meeting. Director Elks reviewed the application for the Commissioners. She stated that the staff has received the acknowledgment of the TABC Rules and Regulations and she recommended approval. Commissioner Mathews made a motion to approve. Commissioner Bond seconded the motion, and it was approved with 3 ayes.

5. CONTESTED CASES

LEAH DONNELLY

Ms. Donnelly is appealing the decision of TABC staff denying her application for a server permit. On her application for a server permit, Ms. Donnelly disclosed a 1998 conviction for distributing a schedule I controlled substance. T.C.A. §57-3-704 prohibits the issuance of a server permit to anyone who has been convicted of any crime relating to the sale of schedule I controlled substances within the previous eight (8) years. Because Ms. Donnelly's conviction was in September 1998 (more than four years ago, but less than eight years ago), Senate Bill 1242 could potentially apply to her if it is passed by the General Assembly during this legislative session.

Discussion/Action Taken:

Ms. Leah Donnelly was present at the meeting. Assistant Director Carolyn Smith reviewed the application for the Commissioners. She stated that Ms. Donnelly is appealing the denial of her application for a server permit. She stated that Ms. Donnelly had disclosed a conviction in 1998 for distribution of a Schedule I controlled substance. She will not be able to obtain a server permit for an eight (8) year period. The eight years will be up in September, 2006. However, she falls within that four (4) and eight (8) year period that may be addressed by a Senate Bill during this Session. Leah Donnelly stated the plea bargain was simulation instead of distribution. Commissioner Mathews made a motion to suspend action until after the termination of the General Assembly to see if there is a Bill passed. Commissioner Bond seconded the motion, and it was approved with 3 ayes.

6. PRIVATE CLUBS

**AMERICAN LEGION POST 81
CLEVELAND, TENNESSEE (BRADLEY COUNTY)**

The American Legion Post 81 has requested a transfer of location from 3428 Henderson Avenue, Cleveland, TN to 227 James Asbury Drive, N.W., Cleveland, TN. The request is based on the fact that the prior building did not meet the current building codes and it would have been very costly to bring the building up to code. In addition, the building was much larger than what the club needed. All documentation has been submitted with the exception of the following:

- a. TABC Inspection; and
- b. Use and Occupancy Permit

Discussion/Action Taken:

Assistant Director Carolyn Smith reviewed the application for the Commissioners. She recommended approval upon submission of the TABC inspection and the Use and Occupancy Permit. Chairman Jones made a motion to approve upon submission of the pending documentation. Commissioner Mathews seconded the motion, and it was approved with 3 ayes.

7. SPECIAL OCCASION LICENSES

8. CONSUMER EDUCATION SEMINAR LICENSES

9. PERSONNEL

10. BUDGET

11. CONSENT ORDERS

12. PENDING MATTERS LIST

- 13. MISCELLANEOUS** – Commissioner Mathews stated that at the last Commission meeting, the Commissioners and staff visited Beachaven winery in Clarksville. After talking to a number of wine owners, he is convinced that the wine industry can be very beneficial in Tennessee to a number of different interests. The wine industry stated that they would like to have a meeting with the Governor to present ideas on how the wine industry could grow in Tennessee. Commissioner Mathews stated that he would like to propose, to the Commission, that the Commission endorse the idea and assist in scheduling a meeting with the Governor. Further, Commissioner Mathews suggested that the Commission support this as another element of the alcohol industry in Tennessee that has potential and that the Commission support the wine industry. Chairman Jones stated that he shared Commissioner Mathews interest in the wine industry in Tennessee and appreciates the current situation the wineries face. Winery owners have made significant investments of personal money and are all very small operations. The current laws can make their operations difficult to some degree. After visiting with the wineries, and reviewing the J-6 Waivers for thirteen (13) years, Chairman Jones stated that he feels that the wineries are substantially a good operation in Tennessee and wholesome for the State of Tennessee and the Agriculture industry in Tennessee. Further, he would support the wineries' efforts to seek an audience with the Governor. He stated that he would be in favor of a reasonable request to increase the cap on the amount of product the wineries can sell in order to provide greater opportunity for the Agricultural industry in Tennessee. Commissioner Bond made a motion to have Commissioner Mathews assist in scheduling an appointment with the Governor's Office for the winery association. Chairman Jones seconded the motion, and it passed with 3 ayes.

- 14. DATE OF NEXT MEETING** – Thursday, March 16 at 1:00 p.m. and Thursday, April 27 at 1:00 p.m.

There being no further business the meeting was adjourned.

Shari Danielle Elks
Executive Director

John A. Jones
Chairman

